

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. There appears to be no dispute that the petitioner received \$655 in Food Stamps during this period that she would not have been eligible for had the Department correctly

identified the recipient of the income the household received during this period.

3. The petitioner maintains that she made several inquiries of her worker during this time regarding her Food Stamps, and that she should not be held liable for this overpayment.

4. Also complicating the case somewhat is the fact that in April the petitioner also received \$100 in "emergency" Food Stamps to compensate her for food lost due to a prolonged power outage in her area. The petitioner maintains that she did not really want this aid, but that her worker insisted she should take it. There does not appear to be any dispute that the petitioner used all the Food Stamps she received during this period to her and her household's benefit.

ORDER

The decision of the Department is affirmed.

REASONS

The petitioner does not dispute that the earnings she received from March through May 2007 resulted in an overpayment of \$655 in Food Stamps during that period. The Department concedes that the petitioner was not at fault in

reporting her income and that the overpayment is the result of the Department's error.

Under the Food Stamp regulations, the Department is required to "establish a claim against any household that has received more Food Stamp benefits than it is entitled to receive." F.S.M. § 273.18(a). Even if the overpayment can be determined to have been the Department's fault, the regulations provide: "A claim shall be handled as an administrative error claim if the over issuance was caused by State agency action or failure to take action . . ." F.S.M. § 273.18(a)(2). The Department is required to "take action to establish a claim against any household that received an over issuance due to an . . . administrative error if . . . [a] state agency incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment" so long as not more than twelve months have elapsed between the month the over issuance occurred and the month the state agency discovered the error. F.S.M. § 273.18(b)(2)(ii). If administrative error occurred, the size of the Department's claim must equal the difference between what the household should have received and what the household was actually allotted. F.S.M. § 273.18(c)(1)(ii). If the household is continuing to receive Food Stamps, the required repayment is

the greater of ten percent of the household's monthly allotment or \$10 per month when the claim is based on administrative error—twenty percent or \$10 when caused by household error. F.S.M. § 273.18(g)(4).

Inasmuch as the Department's decision is in accord with the above regulations, the Board is bound by law to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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